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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 THOMAS W.S. RICHEY,

9 Plaintiff,

10 v.

11 D. DAHNE,

12 Defendant.

CASE NO. C12-5060 BHS

ORDER GRANTING
DEFENDANT'S MOTION TO
QUASH AND DENYING
PLAINTIFF'S MOTION TO
APPOINT COUNSEL AND
MOTION TO SUSPEND HEARING
AND AWARD SANCTIONS

13 This matter comes before the Court on Defendant D. Dahne's ("Dahne") motion to
14 quash subpoenas, Dkt. 144, and Plaintiff Thomas W.S. Richey's ("Richey") motion to
15 appoint counsel, Dkt. 145, and motion seeking suspension of evidentiary hearing and
16 request for sanctions, Dkt. 146.

17 On December 11, 2019, Dahne filed a motion to quash subpoenas Richey had
18 served requesting witnesses to testify at depositions. Dkt. 144. Dahne argues that the
19 Court should quash the subpoenas because they do not allow a reasonable time to
20 comply, require an individual to comply beyond the geographic limitations, and subject
21 the witnesses to undue burden. *Id.* On December 20, 2019, Richey responded and
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1 conceded that the subpoenas “have deficiencies.” Dkt. 145 at 1. The Court agrees and
2 therefore **GRANTS** Dahne’s motion to quash.

3 Richey also moved for appointment of counsel. *Id.* The Court **DENIES** the
4 motion because Richey has failed to show an extraordinary circumstance that requires the
5 assistance of counsel.

6 In the alternative, Richey requests that the Court allow him to depose the
7 witnesses in an appropriate manner. *Id.* at 2. At this point, the record does not reflect
8 Dahne or the State’s unwillingness to work with Richey to accommodate either video
9 depositions or some other form of discovery, such as requests for admissions, so that
10 Richey may obtain the evidence he is seeking. Absent such refusal to comply with
11 Richey’s *reasonable* requests, the Court declines to intervene in something that the
12 parties should be able to accomplish themselves.

13 Finally, on December 20, 2019, Richey filed a motion requesting suspension of
14 the evidentiary hearing and sanctions for spoliation of evidence. Dkt. 146. On January 3,
15 2020, Dahne responded. Dkt. 148. On January 14, 2020, Richey replied. Dkt. 150.

16 Regarding the evidentiary hearing, Richey argues that he has submitted sufficient
17 evidence to establish that the hearing is no longer necessary. Dkt. 146. The Court
18 disagrees. Richey’s evidence does not establish as a matter of undisputable fact that the
19 allegations he wrote in the relevant grievance were true as opposed to a fabrication to
20 initiate litigation. Therefore, the Court **DENIES** the request to suspend the hearing.

21 Regarding sanctions, Dahne contends that he did not spoil or withhold evidence
22 regarding the actual incident Richey wrote about in the grievance. Dkt. 148. Instead,

1 Dahne contends that these facts became relevant when Richey told his wife that he
2 fabricated the substance of the grievance. *Id.* The Court agrees. Therefore, the Court
3 **DENIES** Richey's motion for sanctions.

4 In sum, the Court grants Dahne's motion, Dkt. 144, and denies Richey's motions,
5 Dkts. 145, 146.

6 **IT IS SO ORDERED.**

7 Dated this 27th day of January, 2020.

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10 BENJAMIN H. SETTLE
11 United States District Judge
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